IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8253 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHARDABENSAHDEVSINHW/OSAHDEVSIMHKALKASINH - Petitioner(s)

Versus

KIKABHAIDGAMIT & 3 - Respondent(s)

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Appearance :

MR RD RAVAL for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1 - 4.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 06/10/2005

ORAL JUDGMENT

1. In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the judgment and order passed by the Gujarat Revenue Tribunal dated 19.1.91 passed in

Revision Application No.312 of 1988 in dismissing the same and confirming the order passed by the Dy. Collector, Vyara dated 30.3.87 passed in Tenancy Appeal No. 27/84 as well as the order passed by the Mamlatdar and ALT, Mahuva dated 30.6.84 passed in Tenancy Case No.24/83 by which the respondents herein came to be declared as tenants of the land bearing plot No.88 admeasuring Hector-1 - 86-Are situated at village Machhisadada, Taluka Mahuva, District Bhavnagar.

2. The respondents submitted application before the Mamlatdar & ALT, Mahuva for declaring them as tenants under the provisions of the Bombay Tenancy Act and more particularly, under Section 70(B) of the Act and on appreciation of evidence oral as well as documentary, the Mamlatdar and ALT came to the conclusion that the respondents were in possession of the land in question for more than 20 years as tenants and they were cultivating the land in question and therefore, by order dated 30.6.84 passed in tenancy case No.24/84 declared them as the tenants of the land in question. Being aggrieved and dissatisfied with the order passed by the Mamlatdar & ALT, Mahuva the petitioner preferred appeal before the Dy. Collector, Vyara being Tenancy Appeal No.27/84 and the Dy. Collector, Vyara by its judgment and

order dated 30.3.87 dismissed the said appeal and confirmed the order passed by the Mamlatdar & ALT. Being aggrieved and dissatisfied with the same the petitioner preferred revision application before the Gujarat Revenue Tribunal under Section 76 of the Act being Revision Application No. TEN.B.A. 312/82 and the Gujarat Revenue Tribunal by its judgment and order dated 19.7.91 dismissed the said revision application confirming the order passed by both the authorities below. Being aggrieved and dissatisfied with the same, the petitioners have preferred the present Special Civil Application under Article 227 of the Constitution of India.

3. Shri R.D.Rawal, learned advocate appearing on behalf of the petitioner has strenuously argued and submitted that all the three authorities below have materially erred in declaring the respondents as tenants of the land in question under the provisions of the Bombay Tenancy Act and in fact, the respondents were never in possession of the land in question, more particularly, since last 20 years as alleged and therefore, it is requested to allow the present Special Civil Application.

4. It is required to be noted that this is a petition under Article 227 of the Constitution of India and this

Court is not required to re-appreciate the evidence on record. All the three authorities below have concurrently found the respondents in possession of the land in question and cultivating the land in question and have declared the respondents herein as tenants of the land which is not required to be interfered with by this Court in exercise of powers under Article 227 of the Constitution of India. Even otherwise, there is no jurisdictional error much less and error of law committed by the Gujarat Revenue Tribunal in dismissing the said Revision Application and confirming the order passed by both the authorities below which were on appreciation of evidence. Under the circumstances, the present Special Civil Application is required to be dismissed.

5. For the reasons stated above, the petition fails and the same is hereby dismissed. Rule is discharged. However, there will be no order as to costs. Ad-interim relief, if any, stands vacated.

(M.R.SHAH, J.)

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